

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

UNITED STATES OF AMERICA,

v.

GERARDO TORRES.

No. 09 CR 669-12
Judge James B. Zagel

MEMORANDUM OPINION AND ORDER

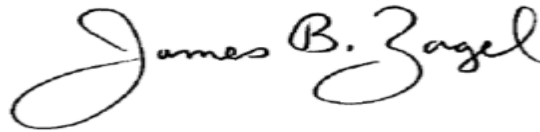
Gerardo Torres seeks to reduce the sentence he received for transporting and delivering large quantities of cocaine. At the time of sentencing, Torres' base offense level was determined to be Level 38. He was sentenced to 110 months in custody, which was significantly lower than the Guideline range of 135-168 months.

Under a change in law, certain sentences can be reduced by the court which imposed the sentence. A sentence can be reduced only when a reduction is consistent with the policy of the Sentencing Commission. The Commission rule provides that a retroactive amendment can warrant a sentence reduction if the amendment lowers the applicable sentencing range for the defendant in question. Here, the new amendment does not alter the sentencing range under which Torres was already sentenced as a career offender.

Specifically, Torres conceded that he was personally involved with at least 650 kilograms of cocaine. The new drug quantities listed in the Guidelines require 450 kilograms of cocaine to qualify as a Level 38. Since Torres' case still surpasses the amended drug quantity for Level 38, his sentencing Guideline is unaffected by the amendment and his sentence should remain the same. The only pathway to a lower sentence at this juncture is for the defendant to bring his case to the executive branch of the Government, not the judicial branch.

For the foregoing reasons, I deny the motion of Gerardo Torres for sentence reduction.

ENTER:

A handwritten signature in black ink that reads "James B. Zagel". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

James B. Zagel
United States District Judge

DATE: June 20, 2016